

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**STATE OF NEW MEXICO ex rel.
State Engineer et al.**

Plaintiffs,

v.

**No. 69cv07941 MV/KK
Rio Chama Stream System**

ROMAN ARAGON et. al.,

Defendants.

**MOTION FOR LEAVE TO WITHDRAW
ENTRY OF APPEARANCE FOR THE
RIO CHAMA ACEQUIA ASSOCIATION**

COMES NOW Peter Thomas White to request permission to withdraw his appearance as the attorney for the defendant Rio Chama Acequia Association pursuant to District of New Mexico Local Rule Civ. 83.4(c) and New Mexico District Court Rule 1-089(C) NMRA. The following legal authorities and facts support this motion.

1. Mr. White filed an Entry of Appearance on behalf of the Rio Chama Acequia Association on April 15, 2016. (Doc. No. 10990). The nature and extent of that representation was limited by the Rio Chama Acequia Association Contract for Professional Services Grant No. 08NMDAACQ01 dated April 1, 2014.

2. The Contract states that: “Mr. White has agreed to represent the member acequias and their parcientes (only in their capacity as members of acequias and not their individual sub files) to defend, protect, and conserve their water rights”

3. The Contract states that the Rio Chama Acequia Association consists of a majority of acequias within the Espanola-Abiquiu Section 1 of the Rio Chama adjudication suit.

4. Contract Amendments Nos. 1 and 2 extended the term of the Contract from June 14, 2014, to December 31, 2016. The Contract was not extend past December 31, 2016. There is not contact authorizing Mr. White's representation of the Rio Chama Acequia Association in the Rio Chama adjudication suit.

5. Mr. White's March 10, 2017, letter to the President of the Rio Chama Acequia Association, Fred Vigil, and the officers of community ditch associations that are or may be members of the Association gave notice that the Contract with the Association terminated on December 31, 2016, and that he no longer represents the Association and its member ditches in the Rio Chama adjudication suit.

6. The Federal Local Rules state that: "The Rules of Professional Conduct adopted by the Supreme Court of the State of New Mexico apply except as otherwise provided by local rule or Court order." *See* D.N.M.LR-Civ. 83.9.

7. Under the heading "Permissive Withdrawal" the New Mexico Rules of Professional Conduct, Rule 16-116(B) NMRA, states that a lawyer may withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client.

8. Mr. White's withdrawal from representing the Rio Chama Acequia Association can be accomplished "without material adverse effect on the interests" of the Rio Chama Acequia Association.

9. Rule 1-089(B) NMRA states that: "The court may place conditions on an order approving withdrawal as justice requires, such as directing the substitution of counsel with an accompanying written notice filed with the clerk and served in the parties"

10. The previous attorney retained by the Rio Chama Acequia Association filed a motion to withdraw as counsel for the Association in 2014. (Doc. 10986). That motion was based on the fact he no longer had a contractual relationship with the Association.

11. The United States Magistrate Judge entered an Order to Show Cause on March 3, 2014. (Doc. No. 10987). It stated: “The Rio Chama Acequia Association shall, within 30 days of entry of this Order, have a federally licensed attorney enter his or her appearance, or show cause why the Court should not dismiss the Rio Chama Acequia Association’s claims without prejudice for failure to comply with the District of New Mexico’s Local Rules of Civil Procedure”

12. Federal Local Rules state that: “The motion to withdraw and proposed order must indicate consent of the client represented by the withdrawing attorney” *See* D.N.M.LR-Civ. 83.8(a).

13. The Rio Chama Acequia Association has Articles of Incorporation and By-Laws.

14. The 1987 By-Laws for the Rio Chama Acequia Association state that an acequia member of the association is entitled to one vote in the election of officers upon payment of an annual membership fee. (Section 3-2). The board of directors shall elect at the annual meeting the officers of the association to serve a one-year term. (Section 4-3). The annual meetings of the association are on the first Wednesday in August. (Section 5-1).

15. The Rio Chama Acequia Association is not now in compliance with its By-Laws. The Association has not held an annual meeting or elected officers during recent

years. For this reason he is not able to obtain the Association's consent to withdraw his entry of appearance on behalf of the Association.

WHEREFORE the Court is requested to enter an order allowing Peter Thomas White his withdraw his entry appearance on behalf of the Rio Chama Acequia Association and its member ditches. The address for the Association's President, Fred Vigil, is Post Office Box 687, Medanales, New Mexico 87548 and his phone number is (505) 927-6607.

NOTICE

Objections to this motion to withdraw must be served and filed within fourteen (14) days from the date of service of the motion. The failure to object within that time constitutes consent to grant the motion. *See* D.N.M.LR-Civ. 83.8(b).

DATED: March 27, 2017.

/s/ Peter Thomas White
PETER THOMAS WHITE
125 East Palace Ave., Suite 50
Santa Fe, New Mexico 87501
(505) 984-2690

CERTIFICATE OF SERVICE

I certify that on March 27, 2017, I filed electronically through the CM/ECF system, the Notice of Withdrawal of Counsel, which caused the parties and counsel to be served by electronic means as reflected on the Notice of Electronic Filing. I further certify that on March 27 2017, the following non-CM/ECF participants were served by first class mail or electronic mail:

Fred Vigil, President
Rio Chama Acequia Association
Post Office Box 687
Mendanales, New Mexico 87548

Officers or parcientes of possible member ditches in the Rio Chama Acequia Association:

Tim Seaman	timseaman@windstream.net
Mustafa Chudnoff	mustafa@chudnoffconsulting.com
Jeff Nitz	redmpintain@valomet.com
Larry Crawford	klh718@aol.com
Alfonso Martinez	dog718@windstream.n
Raul Manzanares	raul.manzaneres@lacnm.us
Sammy Martinez	martinez_farm@yahoo.com
Mick Trujillo	mick.trujillo@yahoo.com
Fernando Bayardo	fbayardo@phs.org
Candy Bone	purt911@comcast.net
Cesar Coronado	cesar@lanl.gov
Steven Smith	ssmith@lensic.org
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Dennis Trujillo	trujillomd@windstream.net
Chris Roybal	olyba70@gmail.com
Bobby Tainter	b_tainter@yahoo.com
David Garcia	cafeyatole@gmail.com
Benito Vigil	vigilhowdy@gmail.com
Stacey Talachy	stalachy@lanl.gov

/s/ Peter Thomas White
Peter Thomas White